

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

V.

ALI AL-TIMIMI,

Defendant.

at 3 (“The Government . . . urges us to abandon the settled meaning of the statute and employ a new definition of ‘crime of violence.’ We cannot do so. Neither the statutory language nor controlling precedent offer any support for the Government’s proposed reinterpretation. Rather, the text and structure of § 924(c)(3)(B) plainly set forth a definition of ‘crime of violence’ that fails to comport with due process.”).

The Fourth Circuit also reaffirmed that the separate “force clause” codified at § 924(c)(3)(A) encompasses only those offenses that require force as an element. *See slip op.* at 6 (“When a statute defines an offense in a way that allows for both violent and nonviolent means of commission, that offense is not ‘categorically’ a crime of violence under the force clause.”); *see also id.* (forming of a conspiracy agreement to commit Hobbs Act robbery “does not invariably require the actual, attempted, or threatened use of physical force.”).

With § 924(c)(3)(B) now invalidated within the Fourth Circuit, the defense respectfully submits that *Simms* resolves the pending motions for acquittal in Al-Timimi’s favor. The defense also notes that it is in the process of supplementing its evidentiary motion that remains pending before this Court [Dkt. No. 417], and respectfully submits that a hearing or status conference could benefit the parties should it please the Court.

Dated: January 24, 2019

Respectfully submitted,

/s/

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CERTIFICATE OF SERVICE

I certify that on January 24, 2019, I will file the foregoing document on the CM/ECF system (after a review by this Court's designated Classified Information Security Officer), which will then serve it by NES electronic notification upon all counsel of record, including:

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